

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAGNA ELECTRONICS, INC.,

Plaintiff,

-vs-

Case No. 13-11376
HON. AVERN COHN

VALEO NORTH AMERICA, INC.;
VALEO S.A.; VALEO GMBH;
VALEO SCHALTER UND
SENSOREN GMBH; and
CONNAUGHT ELECTRONICS LTD.,

Defendants.

MEMORANDUM AND ORDER FOLLOWING IN CAMERA REVIEW

I.

This is a patent case. Now before the Court is

Defendants' Request for *In Camera* Review of Documents
Magna is Withholding as Privileged or Work Product (Doc.
179).

A listing of relevant papers subsequent to the Request follow:

- Magna's Response to Defendants' Motion to File Under Seal (Doc. 180) (Doc. 182)
- Identification of Exemplary Documents for *In Camera* Review (Doc. 185)
- Order Granting Request for *In Camera* Review (Doc. 186)
- Magna's Submission of Documents for *In Camera* Review (Doc. 189)
- Defendants' Response to Magna's Submission of Documents for *In Camera* Review (Doc. 190).

This Memorandum resolves the Request and sets forth the documents which

must be disclosed and the documents which are protected by attorney-client and work product privilege.

As an initial matter, the law relating to privilege is well known and need not be repeated here. The most recent articulation can be found in the Court of Appeals for the Federal Circuit's decision in In re Spaulding Sports Worldwide, Inc., 203 F.3d 800 (Fed. Cir. 2000).

II.

A.

The documents submitted for *In Camera* review have been lodged with the Court in a three-ring binder labeled

- Magna's Resubmission of Documents for *In Camera* Review Pursuant to Court Order

B.

The documents in question are divided into four (4) categories, as follows:

A. Documents for Which No Lawyer Is Identified as an Author or Recipient

- Identified authors and recipients are not lawyers: Clawback Log Entries MAGE00004211, MAGE00008653-655, MAGE00053690-696, MAGE00156090, and MAGE00222580.
- No author or recipient is identified: Non-Email Log Entries 412, 448, 496, 546, and 1157.

B. Documents for Which Magna's Basis for Claiming Privilege Is that the Documents Contain Information from the Client

- Non-Email Log Entries 50, 190, 251, 276, 449, 450, 452, 453, 491, and 495.
- C. Draft Communications
- Clawback Log Entries MAGE00008697-700, MAGE00008746-751, MAGE00132334-343, and MAGE00133964-966, and MAGE00144013-014.
- D. Documents Related to Patent Prosecution that Were Not Communicated to Anyone at Magna
- Non-Email Log Entries 192, 195, 411, 413, 430, 851, 855, and 1111.

C.

The Court has reviewed the documents. Attached are the results of the review. The documents labeled **yes** are neither work product nor privileged; the documents labeled **no** are either privileged or work product. Particularly, many of them are drafts of prior applications for patents; as such they are privileged. See McCook Metals, LLC v. Alcoa, Inc., 192 F.R.D. 242252-53 (N.D. Ill. 2000).

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: 4/26/2018
Detroit, Michigan